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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/072,553

02/07/2002

Bruce Plotnick

4665/9

3446

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09/08/2006

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EXAMINER

LONSBERRY, HUNTER B

ART UNIT

PAPER NUMBER

2623

DATE MAILED: 09/08/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action Before the Filing of an Appeal Brief	Application No. 10/072,553	Applicant(s) PLOTNICK, BRUCE	
	Examiner Hunter B. Lonsberry	Art Unit 2623	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 14 August 2006 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
 b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
 (a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
 (b) ☐ They raise the issue of new matter (see NOTE below);
 (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
 (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
 5. ☐ Applicant's reply has overcome the following rejection(s): _____.
 6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
 7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
 The status of the claim(s) is (or will be) as follows:
 Claim(s) allowed: _____.
 Claim(s) objected to: _____.
 Claim(s) rejected: _____.
 Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
 9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
 10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: see below.
 12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s) _____
 13. ☐ Other: _____


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Applicant argues that Kikinis fails to teach each and every element of claim 1. That Kikinis displays the same EPG on the display device 158 as the PDA and there is no local EPG on the PDA and remote EPG on the STT. Instead there is one EPG merely displayed in two places. That the Examiner appears to content that there is an inherent step of synchronizing as claimed is somehow inherent to the Kikinis reference. Applicants disagree with the Examiners citation of paragraphs 34-40 as disclosing the claimed invention. (pages 7-8).

The Examiner disagrees entirely. See Final Rejection for each and every claim element being addressed. Applicant is apparently citing the portions dealing with the input device 160, while ignoring the cited portions dealing with the remote PDAs disclosed in paragraphs 34-40.

Kikinis discloses that PDA's 220 and hand held devices 310 are wireless devices with antennae 315a-n, which transmit via RF waves via wireless protocols such as cellular, PCM, Bluetooth etc, and may communicate wireless with a STB 205 without going through an intermediate network 125, see figures 2 and 3. Each handheld device may be implemented in a similar fashion to a previously described input device 160 (paragraphs 26-27, 33-34) in order to make viewing selections, preprogram reminders for viewing selections, program recording events or any other functions typical of electronic programming guides (paragraph 30). A number of viewers may view the same EPG on a plurality of wireless enabled hand held devices. The wireless connection may transmit each user's comments or changes to each EPG enabled device, thus in order to be synchronized to display the same EPG, the user's comments, changes and selections must be transmitted during a synchronization step (paragraphs 38-39). EPG selections may be stored on the STB (original claim 17 in conjunction with original claims 19 and 20) and the EPG itself may be displayed on a display 105 (paragraph 33).

As the handheld units are wireless devices, and wireless devices have a finite range, and as Kikinis teaches that the hand held units may communicate with the STB wirelessly, and is silent with regards the use of a repeater or any other intermediate device between a Bluetooth enabled STB and Bluetooth enabled PDA (see figure 2,3 no intermediate repeating element), and that the PDA may be used to browse select and display portions of the EPG on the display 105, direct communications must take place between the handheld device and the STB. Further, given the short range of the Bluetooth standard, synchronization of the EPGs cannot take place between a handheld device and the STB unless a handheld device is within short proximity of a Bluetooth enabled receiver.

Therefore, Kikinis does teach synchronization between a STT and PDA.

Applicant traverses the Official Notice taken with regards to claims 7, 20 and 24 (pages 9-10).

The Examiner notes that U.S. 5,699,107 (of record) teaches reminder alert features between a local and remote device (see column 12, lines 16-51).